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JAY A. CHESA VAGE
3833 MIDDLEFIELD RD.
PALO ALTO, CA 94303

In re Application of
Andreas v. Bechtolsheim, et al.
Application No. 09/339,963
Filed: June 25, 1999

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DECISION ON PETITION

This is a decision on the Petition To Reconsider Holding Of Abandonment under 37 CFR 1.181(a) and MPEP 711.03(a), received in the United States Patent and Trademark Office (USPTO) on August 6, 2004.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The application was held abandoned for applicant's failure to timely file corrected drawings, as required in the Notice of Allowability, mailed January 9, 2004. Accordingly, a Notice of Abandonment was mailed on June 25, 2004.

Applicant states that he made a complete reply to the Notice of Allowance on March 17, 2004. Further, that on March 17, 2004 the applicant mailed to the USPTO, the Fee Transmittal, Issue fee of \$1,330 (check), and 11 pages of formal drawings. In support of this assertion, applicant has provided a copy of the Fee(s) Transmittal, the check, and eleven sheets of formal drawings.

In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

MPEP 503 (postcard receipt as prima facie evidence)
Certificate of Mailing under 37 CFR 1.8(b)
"Express Mail" Mailing under 37 CFR 1.10

Provisions under 37 CFR 1.8(b) requires that the petitioner (1) promptly inform the Office of the previous timely mailing or transmission after becoming aware that the Office has no evidence of receipt of the correspondence, (2) supply copies of the previously mailed correspondence with certificate of mailing thereon, and (3) include a statement which attests to the previous timely mailing.

The Office acknowledges receipt of the Fee(s) Transmittal on March 17, 2004 which bearing a certificate of mailing signed and dated March 17, 2004. However, the Transmittal clearly states:

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper such as an assignment or formal drawings, must have it's own certificate of mailing.

Since, there was no certificate of mailing provided for the formal drawings, the applicant could not satisfy requirement under 37 CFR 1.8(b)(2).

Patent rules under 37 CFR § 1.8 ii states in part: ... The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. *See 37 CFR §1.8 Certificate of mailing or transmission*

37 CFR § 1.10 and MPEP 503 are not applicable since the petitioner has not provided evidence that either of these procedures were used.

The holding of abandonment cannot be withdrawn as this time.

Although this petition for withdrawal of the holding of abandonment is being dismissed, other petition remedies are available for bringing about the withdrawal of the holding of abandonment.

File a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). Forms are available at USPTO website <http://www.uspto.gov>

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable;
and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.
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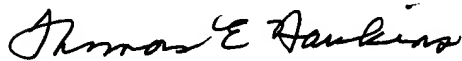
- Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 703-305-9282 or addressed as follows:

By mail: Commissioner for Patents
 P O Box 1450
 Mail Stop Petitions
 Alexandria, VA 22313-1450

Telephone inquires concerning this decision may be directed to the undersigned at 703-305-8380.



Thomas E. Hawkins
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